IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4651 of 1991

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARVIND TEXTILE - Petitioner(s)

Versus

REGIONAL DIRECTOR - Respondent(s)

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Appearance :

MR MR ANAND for Petitioner No(s).: 1.

MR HEMANT S SHAH for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 20/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 13.11.1990 passed by the E.S.I. Court, Ahmedabad in E.S.I. Application No. 13/78, whereby the said application was dismissed.

2. The short facts of the case are that the petitioner

firm was a partnership firm and was having 8 partners at the time of inception. In the year 1974, 14 employees were employed in the said firm.

2.1. Somewhere in the year 1975, the Inspector from the State Insurance Corporation visited the factory of the petitioner firm. Pursuant to the above inspection the Insurance Inspector submitted his report dated 12.6.1975 wherein he has stated that at the time of inspection the petitioner firm was having 14 full time workers and six other persons were also rendering service.

2.2. Thereafter the petitioner firm received a communication dated 23.08.1977, wherein it was stated that the E.S.I. Act was applicable to the petitioner firm since it had employed 21 persons in it.

2.3. Being aggrieved by the said communication dated 23.08.1977, the petitioner firm approached the E.S.I Court, Ahmedabad, which passed the impugned order. Hence, this petition.

4. Mr. Raval learned advocate for the petitioner has submitted that the petitioner firm was closed at the time when the petition was filed. He has further submitted that as on today he is not having the knowledge whether the petitioner firm is working or not.

5. I have heard the learned advocates for the respective parties. Having perused the relevant material on record, I am of the opinion that the order passed by the E.S.I Court

is just and proper in view of the fact that as per the definition of “Employee” under Section 2(9)(iii) of the Employees State Insurance Act, persons who are working on part time basis are to be covered under the head “Employee”, and, therefore, the E.S.I Court was justified in arriving at the conclusion that the provisions of the E.S.I. Act was applicable to the petitioner firm. Thus, in the present case, the workers may not get any benefits under the said Act, but, for the purpose of employment, they can be included or termed as “employee”.

6. In above view of the matter, I am in complete agreement with the order passed by the E.S.I. Court and I see no reason to interfere with the impugned order. Hence, the petition is dismissed. Rule is dismissed. Rule is discharged. Interim relief stands vacated. No costs.

[K.S. JHAVERI, J.]

/phalguni/